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FILED

APR 25 2016

**SECRETARY, BOARD OF
OIL, GAS & MINING**

Attorneys for Utah Division of Oil, Gas and Mining

BEFORE THE UTAH BOARD OF OIL, GAS AND MINING

In the matter of: reclamation at
the Elite Rock-West mine,
permit no. S/049/0050, operated
by Wasatch Mountain
Excavating, located southwest
of Elberta in southwestern
Utah County, Utah

**NOTICE OF WITHDRAWAL
OF
NOTICE OF AGENCY ACTION**

Docket No. 2015-023
Cause No. S/049/0050

The Utah Division of Oil, Gas and Mining respectfully gives notice to the Utah Board of Oil, Gas and Mining and all Respondents that the above captioned Notice of Agency Action, docket no. 2015-023, is withdrawn. The grounds for the withdrawal follow:

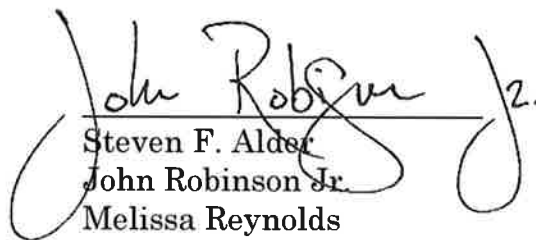
1. The underlying Notice of Agency Action (NOAA) was an action against Wasatch Mountain Excavating, Inc. (Wasatch Mountain) to forfeit a reclamation surety held for the Division of Oil, Gas and Mining's (the Division) benefit and to use the forfeited funds to conduct reclamation at the Elite Rock-West mine site.

2. After a stipulated forfeiture agreement fell through, Wasatch Mountain mobilized equipment to the site and began reclamation in November 2015. The Division made several site visits in 2015 and early 2016 to monitor reclamation activities.
3. The seasonal weather encumbered Wasatch Mountain's efforts, which resulted in the reclamation work stretching over a longer time period than the Division initially anticipated.
4. However, the work is now complete and the Division's final site inspection took place on April 21, 2016.
5. The Inspection Report, including before-and-after photos, is attached at Exhibit A.
6. The Notice of Intent is terminated and no further mining activity is authorized at the Elite Rock–West site.
7. Pursuant to Rule, the Division will retain regulatory jurisdiction over this site until successful revegetation of the mine site is complete. The Division will also retain a cash bond securing that liability. The revegetation estimate is attached at Exhibit B.
8. Except for the obligation to successfully revegetate noted in paragraph no. 6, the Division hereby deems Wasatch Mountain in compliance with its reclamation contract and releases Wasatch Mountain and its creditors from all non-revegetation reclamation obligations associated with the Elite Rock–West mine site.
9. The Division will work with Wasatch Mountain to conclude this matter through the normal administrative bond release process.

For these reasons, bond forfeiture is no longer a proper remedy under Utah law and the Division's Notice of Agency Action is **WITHDRAWN**.

Respectfully submitted on the 25th day of April, 2016.

UTAH OFFICE OF THE ATTORNEY GENERAL

A handwritten signature in black ink, appearing to read "John Robinson Jr.", is written over a horizontal line. The signature is stylized with a large "J" and "R".

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Attorneys for the Division of Oil, Gas and Mining

Certificate of Service

I certify that I served the above **Notice of Withdrawal of Notice of Agency Action** to the following parties on April 25, 2016:

By email:

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*Attorney for Wasatch Mountain
Excavating, Inc.*

A handwritten signature in black ink, reading "John Robinson", is written over a horizontal line. The signature is stylized with large loops and a trailing flourish.

Exhibit A



GARY R. HERBERT
Governor
SPENCER J. COX
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

Minerals Inspection Report

Reviewed _____

Report Date: **04/25/2016**

Mine Name: Elite Rock West	Permit Number: S/49/050	Mine Status: Reclaimed
Operator Name: Wasatch Mtn Excavating (Former)	Inspection Date: 04/21/2016	Permit Fees: No Fee Req.
Inspector(s): A. Abate	Inspection Time: 3:00 PM	Bond Amount: \$10,000
Attendee(s): Brett Bryson	Weather: Clear 68F	Bond Escalation: N/A
Inspection Purpose: Final Inspection to verify reclamation is complete		Prior Inspection: 3/24/2016

Conclusions and Recommendations

The permit area has successfully been reclaimed by the former operator, Wasatch Mountain Excavating Inc.

Elements of Inspection	Evaluated & Commented	Enforcement
1. <i>Permits, Revisions, Transfer, Bonds</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The permit was revoked in May 2014 for the failure to pay permit fees. The operator was ordered to complete reclamation prior to the April 27, 2016 board hearing. This inspection was completed in order to make the determination that reclamation has been completed, if not the Division would seek to forfeit the bond or seek an alternative solution.		
2. <i>Public Safety (shafts, adits, trash, signs, highwalls)</i>	<input type="checkbox"/>	<input type="checkbox"/>
3. <i>Protection of Drainages/Erosion Control</i>	<input type="checkbox"/>	<input type="checkbox"/>
4. <i>Deleterious Material</i>	<input type="checkbox"/>	<input type="checkbox"/>
5. <i>Roads (maintenance, surfacing, dust control, safety)</i>	<input type="checkbox"/>	<input type="checkbox"/>
6. <i>Reclamation</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Grading at the site has been completed. All concrete has been hauled off-site.		
7. <i>Backfilling/Grading (trenches, pits, roads, highwalls, shafts)</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Low spots, ravines and depressions in the landscape that were identified previously by the Division inspector were all filled in. The landscape is naturally very rocky with the vast majority of the large landscape sized boulders being relocated to the neighboring Spartacus Mine. The grading completed now provides a gentle slope gradually steepening from east to west.		
8. <i>Soils</i>	<input type="checkbox"/>	<input type="checkbox"/>
9. <i>Revegetation</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The permit area was roughened to prepare the soil for seed. Seed was purchased from a local supply company and distributed via the broadcast method on the 10-acre permit area.		
10. <i>Other</i>	<input type="checkbox"/>	<input type="checkbox"/>

Inspector's Signature: _____

CC: Brett Bryson, Wasatch Mountain Excavating, @brettwasatchmtn.com, John Robinson - Asst. Attorney General, jrobinson@utah.gov

File: /nrwogmfs1/OGM/GROUPS/MINERALS/WP/M049-Utah/S0490050-EliteRockWest/inspections/Insp-04212016.pdf





November 2015: Unreclaimed looking headward at the escarpment facing southwest.



April 2016: After reclamation same vantage point facing southwest



November 2015: Toe of unreclaimed slope facing south



April 2016: Toe of reclaimed slope facing southeast



November 2015: Concrete debris pile



April 2016: Concrete debris pile hauled away



April 2016: View from the southern end of the permit area looking northwest



Largest of the landscape boulders moved over to the active Spartacus small mine site.

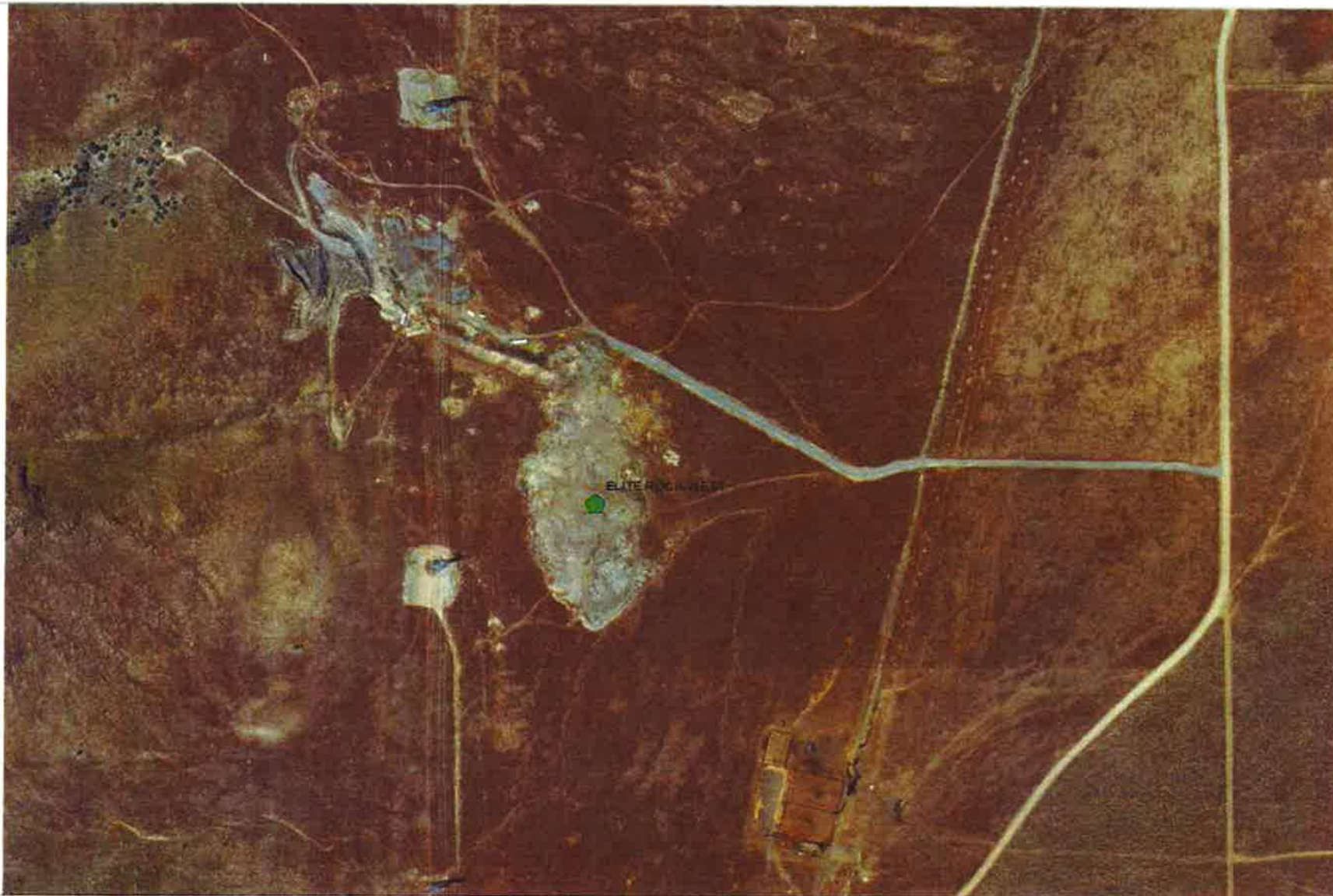


Exhibit B

Seeding Cost Estimate - Elite Rock West S/49/0050

Cost of Seed based on 10-acres	\$928		\$ 928.00
Laborer	\$58.15 hrly	16	\$930.40
Truck	\$156.80 day	2	\$313.60
Estimated costs for one round of seeding			\$ 2,172.00

Note: Seeding may not be successful and a second attempt may be required